



ZACHARY W. CARTER
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

ALEXIS L. LEIST
Assistant Corporation Counsel
Telephone: (212) 356-2410
Facsimile: (212) 788-9776
aleist@law.nyc.gov

May 15, 2014

BY ECF

The Honorable Richard J. Sullivan
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 615
New York, New York 10007

Re: Garbini, et al. v. City of NY, et al. 05 CV 1565 (RJS) (JCF)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the above-referenced matter which is one of the few remaining RNC cases.

Defendants intend to move for summary judgment on plaintiff Russell's claims on the current schedule approved by the Court (moving papers due May 30, 2014) and write to advise the Court of an agreement reached between the parties regarding the remaining claims. In a joint effort to streamline this matter for summary judgment, Rose M. Weber, Esq., and I conferred on May 7, May 13, and May 14, 2014, to identify and narrow the causes of action pled in the complaint to those that plaintiff Russell intended to pursue going forward. Pursuant to those discussions, the claims being pursued by plaintiff Russell are as follows¹:

Federal Claims:

- Excessive Force – against individual defendants (Fifth Claim For Relief)
- First Amendment Violation – against individual defendants (Sixth Claim For Relief)

¹ As alleged in the Fifth Amended Complaint dated November 23, 2009.

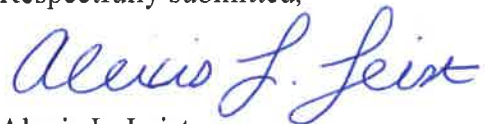
- Conditions of Confinement – against individual defendants (Seventh Claim For Relief)
- Failure to Intervene - against individual defendants (Eighth Claim For Relief)
- a *Monell* claim against the City of New York for an alleged policy and practice of tight handcuffing (Fourteenth Claim For Relief)
- a *Monell* claim against the City of New York for an alleged policy and practice of unlawful conditions of confinement (Fourteenth Claim For Relief)

State Law Claims:

- Assault – against the City of New York only (Third Claim For Relief Under N.Y. State Law)
- Battery – against the City of New York only (Fourth Claim For Relief Under N.Y. State Law)
- Negligent Exposure to Toxic Chemicals and Substances – against the City of New York and HRPT (Seventh and Eighth Claim For Relief Under N.Y. State Law)
- Negligent Training and Supervision – against the City of New York only (Thirteenth Claim For Relief Under N.Y. State Law)

Accordingly, Defendants' fully dispositive summary judgment motion will address only these remaining claims by Mr. Russell. Thank you for your consideration.

Respectfully submitted,



Alexis L. Leist

cc: Magistrate Judge James C. Francis, IV
Rose M. Weber, Esq.